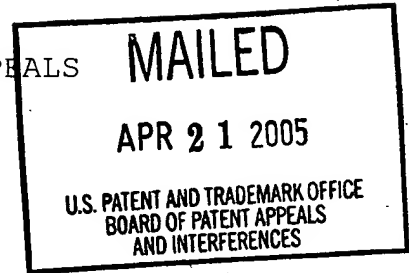


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte MITCHELL BAUER

Application 09/556,647

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences (Board) on October 22, 2004. An extensive review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

The examiner's answer mailed on July 19, 2004 (Paper No. 25) cited on pages 3 and 4 the following books:

- 1) White, Ron, "How Computers Work," Millennium Ed. Que Corp., 9/1999 (328 pages);
- 2) Derfler, Frank, J., et al., "How Networks Work," Millennium Ed., Que Corp. 2000 (228 pages); and
- 3) Gralla, Preston, "How the Internet Works," Millennium Ed., Que Corp., 8/1999 (244 pages).

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However, a copy of these three references are missing from the file. A copy of each reference is needed to complete the instant file.

Additionally, the examiner's answer does not comply with the procedures that indicate that an appeal conference was held.

The Manual of Patent Examining Procedures (MPEP) § 1208 states:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

...

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. **These two appeal conference participants must place their initials next to their names. This will make the record clear that an appeal conference has been held.**

In particular, the signature or initials of John Weiss is missing. Appropriate correction is required.

Accordingly, it is

ORDERED that the application is returned to the examiner for resolution of the following issues:

1) for the examiner to locate and provide a copy of the missing White, Derfler and Gralla references; 2) for proper indication

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that the appeals conference was held as stated in MPEP § 1208; 3) for written notification to appellants; and 4) for further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
Dale M. Shaw
Program and Resource Administrator
(571) 272-9797

cc:
Douglas S. Foote
NCR Corp.
1700 S. Patterson Blvd.
WHQ5E WHO-5E
Dayton, OH 45479

DMS/cam